

# UNITED STATES DISTRICT COURT

# DISTRICT OF NEVADA

\* \* \*

TYRONE NOEL NUNN.

## Plaintiff

v.

## “CERT” OFFICE, et. al..

## Defendants.

Case No. 3:23-CV-00647-MMD-CJB

**ORDER TO FILE COMPLAINT AND  
EITHER PAY FILING FEE OR FILE  
APPLICATION TO PROCEED  
*IN FORMA PAUPERIS***

## I. DISCUSSION

On December 15, 2023, Plaintiff Tyrone Noel Nunn (“Nunn”), an inmate in the custody of the Nevada Department of Corrections (“NDOC”), submitted a document titled “Exceptional Circumstances” with the Court. (ECF No. 1-1.) However, Nunn has not filed a complaint, and has neither paid the full \$405 filing fee for this matter, nor filed an application to proceed *in forma pauperis*.

Pursuant to Federal Rule of Civil Procedure 3, “[a] civil action is commenced by filing a complaint with the court.” Fed. R. Civ. P. 3. While Nunn filed a motion, but not a complaint, no action has been commenced in this Court. Thus, Nunn must file a complaint with the Court to initiate an action.

Additionally, under 28 U.S.C. § 1915(a)(2) and Local Rule LSR 1-2, an inmate seeking to begin a civil action in this Court may apply to proceed *in forma pauperis* in order to file the civil action without prepaying the full \$405 filing fee. To apply for *in forma pauperis* status, the inmate must submit all three of the following documents to the Court:

- (1) a completed **Application to Proceed in Forma Pauperis for Inmate**, this Court's approved form (i.e., pages 1 through 3 with the inmate's two signatures on page 3),
- (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e., page 4 of this Court's approved form), and

(3) a copy of the inmate's prison or jail trust fund account statement for the previous six-month period.

The Court will grant Nunn a one-time opportunity to (1) file a complaint, and (2) file a fully complete application to proceed *in forma pauperis* containing all three of the required documents, or in the alternative, pay the full \$405 filing fee for this action on or before **Friday, January 19, 2024**. Absent unusual circumstances, the Court will not grant any further extensions of time.

If Nunn is unable to file a fully complete application to proceed *in forma pauperis* with all three required documents or pay the full \$405 filing fee on or before **Friday, January 19, 2024**, this case will be subject to dismissal without prejudice for Nunn to file a new case with the Court when Nunn is either able to acquire all three of the documents needed to file a fully complete application to proceed *in forma pauperis* or pays the full \$405 filing fee.

A dismissal without prejudice means Nunn does not give up the right to refile the case with the Court, under a new case number, when Nunn has all three documents needed to submit with an application to proceed *in forma pauperis*. Alternatively, Nunn may choose not to file an application to proceed *in forma pauperis* and instead pay the full filing fee of \$405 on or before **Friday, January 19, 2024** to proceed with this case.

## II. CONCLUSION

For the foregoing reasons, **IT IS ORDERED** that the Clerk of the Court will **SEND** Nunn the approved form for filing a § 1983 complaint by an inmate, and instructions for the same.

**IT IS FURTHER ORDERED** that the Clerk of the Court will **SEND** Nunn the approved form application to proceed *in forma pauperis* by an inmate, as well as the document entitled information and instructions for filing an *in forma pauperis* application.

**IT IS FURTHER ORDERED** that on or before **Friday, January 19, 2024**, Nunn will submit a complaint to the Court, and either pay the full \$405 filing fee for a civil action (which includes the \$350 filing fee and the \$55 administrative fee) or file with the Court:

- (1) a completed **Application to Proceed in Forma Pauperis for Inmate** on this Court's approved form (i.e., pages 1 through 3 of the form with the inmate's two signatures on page 3),
- (2) a **Financial Certificate** properly signed by both the inmate and a prison or jail official (i.e., page 4 of this Court's approved form), and
- (3) a copy of the **inmate's prison or jail trust fund account statement for the previous six-month period.**

8       **IT IS FURTHER ORDERED** that, if Nunn does not file a complaint and a fully  
9 complete application to proceed *in forma pauperis* with all three documents or pay the full  
10 \$405 filing fee for a civil action on or before **Friday, January 19, 2024**, this case will be  
11 subject to dismissal without prejudice for Nunn to refile the case with the Court, under a  
12 new case number, when Nunn has all three documents needed to file a complete  
13 application to proceed *in forma pauperis* or pays the full \$405 filing fee.

## IT IS SO ORDERED.

15 | DATED: December 18, 2023.

  
**UNITED STATES MAGISTRATE JUDGE**